PATENT COOPERATION TREATY

PCT

TRANSLATION INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference P611054/WO/1	FOR FURTHER ACTION	See Form PCT/IPEA/416				
International application No.	International filing date (day/month	/year) Priority date (day/month/year)				
PCT/DE2004/002425	03.11.2004	11.11.2003				
International Patent Classification (IPC) or national classification and IPC						
	C22C21/08, C22C	221/02				
Applicant EADS DEUTSCHLAND GMB	H					
This report is the international preli under Article 35 and transmitted to the		ed by this International Preliminary Examining Authority				
2. This REPORT consists of a total of	6 shee	ts, including this cover sheet.				
3. This report is also accompanied by A	ANNEXES, comprising:					
a. (sent to the applicant and	l to the International Bureau) a total c	of 4 sheets, as follows:				
1 1 1		have been amended and are the basis for this report and/or				
Instructions).	ecurreations authorized by this Author	rity (see Rule 70.16 and Section 607 of the Administrative				
I I I		thority considers contain an amendment that goes beyond is indicated in item 4 of Box No. I and the Supplemental				
Box.		••				
b. (sent to the International	b. (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s))					
		, containing a sequence listing and/or tables				
1	related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).					
This report contains indications relat						
l M						
Box No. I Basis of the	e report					
Box No. II Priority						
Box No. III Non-establ	ishment of opinion with regard to nov	elty, inventive step and industrial applicability				
Box No. IV Lack of un	ity of invention	y of invention				
	Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement					
Box No. VI Certain do	Box No. VI Certain documents cited					
Box No. VII Certain def	ects in the international application					
Box No. VIII Certain obs	servations on the international applica	tion				
Date of submission of the demand	Date of comp	eletion of this report				
	,					
Name and mailing address of the IPEA/EP	Authorized o	fficer				
Facsimile No.	Telephone N	0.				

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.
PCT/DE2004/002425

Box	No. I	Basis of the report		
1.		n regard to the language , this report is based on the internationated under this item.	onal application in the language in	which it was filed, unless otherwise
		This report is based on translations from the original langu which is the language of a translation furnished for the pur		,
		international search (Rule 12.3 and 23.1(b))		
		publication of the international application (Rule 12.	4)	
		international preliminary examination (Rule 55.2 and	Mor 55.3)	
2.	recei	n regard to the elements of the international application, this iving Office in response to an invitation under Article 14 a report):		
		the international application as originally filed/furnished		
	$\overline{\boxtimes}$	the description:		
		pages 1-9		as originally filed/furnished
		pages*		
		pages*		
	\boxtimes	the claims:	_ 10001100 05 1110 11111101115 011 .	
		nos.		as originally filed/furnished
		nos.* <u>2-16</u>		16.09.2005 with letter
		nos.* <u>1</u>		
		nos.*	received by this Authority on	
	Ш	the drawings:		
		sheets		as originally filed/furnished
		sheets*	received by this Authority on	
		sheets*	received by this Authority on	
		a sequence listing and/or any related table(s) – see Suppler	nental Box Relating to Sequence L	isting.
3.		The amendments have resulted in the cancellation of:		
		the description, pages		
		the claims, nos.		
		the description of the Artifician		
		any table(s) related to sequence listing (specify):		
4.		This report has been established as if (some of) the amen		
		they have been considered to go beyond the disclosure as f		
		the description, pages		
		the claims, nos.		
		the drawings, sheets/figs		
		the sequence listing (specify):		
		any table(s) related to sequence listing (specify):		
*	If ite	em 4 applies, some or all of those sheets may be marked "sup	perseded."	

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.
PCT/DE2004/002425

Box	Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement				
1.	Statement				
	Novelty (N)	Claims	1-16	YES	
		Claims		NO	
	Inventive step (IS	S) Claims		YES	
		Claims	1-16	NO	
	Industrial applica	ability (IA) Claims	1-16	YES	
		Claims		NO	

2. Citations and explanations (Rule 70.7)

The submitted amendments appear to meet the requirements of PCT Articles 19 and 34(2)(b).

This report makes reference to the following document:
D1: PATENT ABSTRACTS OF JAPAN vol. 1998, no. 02,
30 January 1998 & JP-A-09 279280, 28 October
1997 & WPI/Derwent Abstract, AN-1998-015156

1. Independent product claim 1

D1 discloses an alloy, example 150, table 7, page 9, the composition of which, with the exception of the Zn content, falls entirely into the scope of the claimed composition (D1, PAJ and WPI/Derwent Abstracts).

The subject matter of claim 1 is therefore novel.

However, it is not discernible from the description of the present application what problem is solved by this distinguishing feature. In fact, no technical effect is shown or mentioned with regard to the claimed Zn content.

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

Furthermore, all the embodiments of the application (see table 1 on page 7) lie outside of the scope of protection of claim 1 owing to the Zn content.

An inventive step therefore cannot be recognized for the subject matter of claim 1 (PCT Article 33(3)).

It should be noted that the lower range limit of

Comments:

the element Ti lies within the impurity range. Ti is therefore regarded as optional.

It should also be noted that exact disclosures, such as the Si content of 1.0 wt.% of example 150 in D1, have to be interpreted as a range around

this value in view of fluctuations in reproducibility and measuring errors. The claimed lower limit of "> 1.0 wt% Si" cannot be regarded as a distinguishing feature in relation to example 150 in D1.

- 2. Independent use claims 14 to 16
- 2.1. Use claims 14 and 15 do not define particular uses because they claim a general use of a product that is defined by a method of production. Method features do not limit a claim unless unambiguously clear properties of the product can be derived as a result of the product having been produced by means of this method, which is not the case presently.

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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

In light of the above arguments regarding claim 1, the subject matter of claims 14 and 15 is not regarded as inventive (PCT Article 33(3)).

2.2. D1 discloses the use of the known alloy as a structural element (D1, WPI/Derwent Abstract). All the features of claim 16 are therefore known from D1.

In light of the above arguments regarding claim 1, the subject matter of claim 16 is therefore not regarded as inventive (PCT Article 33(3)).

It should be noted that the term "heat-resistant safety components" in claim 16 is very broad and therefore includes all types of structural elements.

3. Dependent claims 2 to 13

Dependent claims 2 to 13 do not contain any features which, in combination with the features of any claim to which they refer, meet the PCT requirements for inventive step (PCT Article 33(3)). The reasons for this are as follows:

The same argument as that made with regard to claim 1 under point 1 also applies to claims 2 to 7 and 9 to 13 (PCT Article 33(3)).

It should be noted that a person skilled in the art, on the basis of the technical, exemplary and exact disclosures for Si in D1, would seriously consider applying the technical teaching of the

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D 37 77	P. 144 4 14 25(2) 11 14 15 15 15 15 15 15 15 15 15 15 15 15 15			
Box No. V	Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement			
	known document in the overlapping range for Si, in			
	particular, to the range claimed in claim 3 (D1,			
	abstract; examples 1-187, tables 1-9).			
	It is not clear from the application as a whole what problem could be solved by the distinguishing feature "at least 0.001 wt.% Gd" in claim 8 in			
	relation to D1 (PCT Article 33(3)).			
4.	As a final comment, it should be noted that			
	dependent claim 11 contradicts claim 1 with regard			
	to the Zn content (PCT Article 6).			